

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

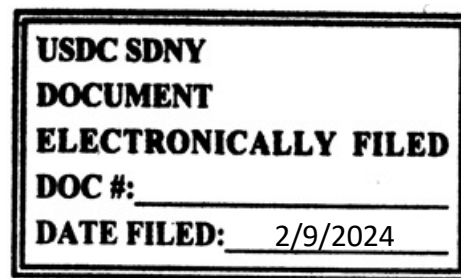
**Carlos Alvarez Chicas et al.,**

**Plaintiffs,**

**-against-**

**Kelco Construction, Inc. et al.,**

**Defendants.**



**1:21-cv-09014 (PAE) (SDA)**

**ORDER**

**STEWART D. AARON, United States Magistrate Judge:**

For the reasons stated on the record during the telephone conference today, February 9, 2024, it is hereby ORDERED as follows:

1. As stipulated to and agreed by and between counsel for Plaintiffs and counsel for Defendants, and based on the representations of counsel and the record before the Court:

a. The conditionally certified collective under the Fair Labor Standards Act ("FLSA") is henceforth decertified such that the FLSA claims are asserted solely by the six individually-named Plaintiffs: Carlos Alvarez Chicas, Alonso Villatoro, Misael Alexander Martinez Castro, Mateo Umana, Angel Martinez and Edwin Ulloa Moreira;

b. Plaintiffs shall not move for class certification pursuant to Rule 23 of the Federal Rules of Civil Procedure with respect to the New York Labor Law ("NYLL") claims in this action such that the NYLL claims are asserted solely by the six individually-named Plaintiffs; and

c. Plaintiffs chose not to replead, and have abandoned, their Fourth Cause of Action, "Brought as a Class Action to Enforce Prevailing Wage Contracts" under New York

Common Law (Pls.' Third Am. Compl., ECF No. 112; *see also* 7/25/23 R&R, ECF No. 163, *adopted by* 8/16/23 Order, ECF No. 167).

2. One final extension of the discovery deadline is GRANTED, such that the deadline for the completion of all outstanding discovery is April 5, 2024.

Accordingly, the Court respectfully requests that the Clerk of Court terminate the gavel at ECF No. 172.

**SO ORDERED.**

Dated: New York, New York  
February 9, 2024

A handwritten signature in black ink, reading "Stewart D. Aaron", is positioned above a horizontal line.

STEWART D. AARON  
United States Magistrate Judge